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Human Rights Environmentalism: Forging Common Ground

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HUMAN RIGHTS

The Center for Human Rights and Humanitarian Law

BRIEF

Washington College of Law • The American University

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Human Rights and Environmentalism: Forging Common Ground

by Gabriel Eckstein & Miriam Gitlin

At its annual meeting held in February and March of this year, the United Nations Commission on Human Rights declined to adopt the recommendation of Special Rapporteur, Madame Fatma Zohra Ksentini, of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, to appoint a Commission-level rapporteur to investigate the link between human rights and the environment. This nonfeasance was due in great part to the reluctance of industrialized nations to unite human rights and environmental protection efforts within a common agenda. Instead, the Commission called for the Secretary-General to conduct further study of the issues raised in the Special Rapporteur's report. Many environmental and human rights organizations were disappointed by this outcome as they considered the substantive aspects of the report to have been already fully discussed.

Since the early 1970s, the international community has widely acknowledged the nexus between human rights and environmental protection. References to this association, and even to a human right to some minimal quality of environment, can be found in numerous international instruments. The Stockholm Declaration

on the Human Environment, for example, proclaims that human beings have the "fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being." Similarly, the Additional Protocol to the American Convention on Human Rights states that "everyone shall have the right to live in a healthy environment."

Despite this widespread acknowledgment of the relationship between human rights and environmental protection, the convergence of these two ideals has remained primarily as an academic issue. On the practical level, efforts to develop a comprehensive strategy for addressing common themes, by both human rights and environmental activists, have been overshadowed by the individual needs and goals of each community.

Much of the difficulty in developing a cooperative initiative centers on the differing perspectives from which activists from both fields view the salient issues. Many human rights proponents contend that environmental protection can only be properly regarded as subsumed within the rubric of human rights law. Although environmentalism is aimed at preserving the world's flora and fauna, human rights activists contend that it is humankind which is the ultimate beneficiary. On the other hand, contemporary environmental philosophy rejects this anthropocentric bias towards the individual, arguing that such utilitarian views of environmental protection would submit all non-human

Europeans Disagree Over Human Rights Conditions at Home

by Peter H. Backes

As a result of intense controversy over the content of the European Parliament's (EP) draft of the annual human rights report for 1993, the Parliament's President, German Social Democrat Klaus Haensch, recently agreed with the leaders of EP factions to withdraw the report from open debate on the floor of the Parliament. Although the controversial report was passed as a draft by the Parliament's Committee for Domestic Affairs in December 1994, and had already been widely discussed by the European media, it was declared confidential and is no longer available for public dissemination.

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Center Hosts Conference on War Criminal Tribunal

by Dharmaputhiran Niles

"One can have short term cease fires; one can even have peace agreements; but I do not believe that the sorts of cycles of violence that one has seen in the former Yugoslavia will stop without adequate justice," said Justice Goldstone, Chief Prosecutor of the War Crimes Tribunal for the Former Yugoslavia (the Tribunal). Justice Goldstone gave the keynote address at a panel discussion on the Tribunal sponsored by the Center for Human Rights and Humanitarian Law on February 23, 1995. (See related interview in *The Human Rights Brief*, Vol. 2, No. 1, at p. 3) Accompanying Goldstone on the panel were John Shattuck, U.S. Assistant Secretary of State for Democracy, Human Rights and Labor; Diane Orentlicher, Associate Professor of Law at WCL; and Tom Warrick, Counsel to Professor Sharif Bassiouni, who was formerly UN Chairman of the Commission of Experts on war crimes in the former Yugoslavia. WCL Professor Robert Goldman moderated the panel.

The Tribunal was created by UN Security Council Resolution 827 in May, 1993 under Chapter VII of the UN Charter as a measure to restore and maintain peace in the former Yugoslavia. Goldstone, who took a leave of absence from his position on the new South African Constitutional Court, was appointed Chief Prosecutor with the unanimous consent of the entire Security Council in July 1994. Since then, his office has issued 40 indictments,

including one for genocide. Trials are scheduled to begin this summer.

The Tribunal's jurisdiction is limited to four general areas of customary and conventional international law, namely violations of the Genocide Convention, grave breaches of the Geneva Conventions, crimes against humanity, and violations of the laws or customs of war. The Tri-



Justice Richard Goldstone answers audience questions

Gabriel Eckstein

bunal's mandate was limited to these four areas because they are beyond doubt part of customary international law and would avoid the allegations of ex-post facto punishment that plagued the Nuremberg and Tokyo tribunals. Due to the magnitude of the crimes that fall within this mandate, however, charging and convicting transgressors will be difficult.

At the conference, Goldstone repeatedly emphasized the need for the Tri-

bunal to stick closely to the evidence, but added that the collection of testimony and documentation would be complicated by the fact that witnesses are spread across Europe and throughout the war-torn Bosnia-Herzegovina. Goldstone stressed, however, that precision in the fact-finding is essential for the successful conviction of the perpetrators.

The Prosecutor's office has two primary goals in carrying out its mandate, according to Goldstone. The first is to establish the events that will form the basis of the prosecutions by identifying areas of the former Yugoslavia in which the most serious offenses occurred, and by recreating what happened through eye witness testimony. There are two reasons for this initial objective. First, it will identify patterns of conduct that are inconsistent with the merely spontaneous actions of paramilitary action in order to show that these atrocities were planned

"I do not believe that the sorts of cycles of violence that one has seen in the former Yugoslavia will stop without adequate justice."

and that there was a command structure established by military and political leaders. Second, this approach will bring the most guilty perpetrators to justice, namely, the people who devised the policies that led to the atrocities and those who gave the orders for the crimes to be committed. Goldstone warned the audience not to dismiss the Tribunal as only trying "little fish." "To talk about people who are accused of having committed multiple murders, rapes, and torture of many people as little fish, seems to me, is a little demeaning to the victims and those who have suffered at the accused's hands," he said. Goldstone contended that the Tribunal is dedicated to prosecuting the leaders who authorized the worst atrocities. He emphasized that "simple participation in the political peace process will not immunize leaders from prosecution."

The Tribunal's second objective is to be even-handed. Goldstone defined this

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Canada and the OAS—The First Five Years

by Brian Tittlemore

For most of this century, Canada steadfastly refused to join the Organization of American States (OAS) and its predecessor, the Union of American Republics. While Canada maintained observer status in the OAS beginning in 1972, and actively participated in many of the Organization's specialized agencies like the Pan American Health Organization, it was unwilling to accede to full membership. According to Richard Gorham, former Canadian Permanent Observer to the OAS, "the traditional explanation for not joining was that we would have to oppose Washington on particular issues or else run the risk of becoming a U.S. puppet."

At the 1989 Hemispheric Summit in Costa Rica, former Canadian Prime Minister Brian Mulroney announced that

"The traditional explanation for not joining was that we would have to oppose Washington on particular issues or else run the risk of becoming a U.S. puppet."

Canada had reversed this position, and explained that the OAS held the "key" to hemispheric cooperation, which his government regarded as "integral to Canada's interests." The following January, Canada was welcomed as the 33rd member of the world's oldest regional organization. Many saw Canada's admission as an opportunity to breath new life into an organization that was overburdened by debt and facing an uncertain future. The fifth anniversary of Canada's admission provides an appropriate benchmark at which to review Canada's impact on the OAS, and the roles it might play in the future.

Accomplishments of Membership

Canada's major achievements in the OAS appear to have been in the areas of democratic development, environmental protection, and institutional reform. One of the first actions undertaken by Canada after joining the Organization was to secure the creation within the OAS of the Unit for the Promotion of Democracy (UPD), currently headed by Canadian,

Elizabeth Spehar. According to the executive order creating the unit, the UPD's mandate is to respond to the requests of member states for "advice or assistance to preserve or strengthen their political, institutional and democratic procedures." John Graham, the first full-time head of the UPD, explains that the establishment of the Unit reflected the OAS General Assembly's "ever-



stronger commitment to preserve and strengthen democracy" and notes that the UPD was a Canadian initiative and one of Canada's first major contributions upon joining the OAS. In addition, Canada participated in efforts to restore democracy to Haiti by contributing to OAS and UN electoral missions and, together with the United States and France, by creating a national police academy in Haiti to train a permanent professional Haitian police force. Canada also played a significant role in drafting and securing approval of the Protocol of Washington, an amendment to the OAS Charter that permits the Organization to suspend a member state if its democratically-constituted government is overthrown by force.

Canada has likewise been involved in efforts to strengthen the OAS's role in environmental protection. For example, Canada's permanent representative to the OAS, Brian Dickson, chairs the OAS working group on the environment. Canada also participated in the creation of energy, bio-diversity, and pollution "action plans" at the Summit of the Americas in Miami in December, 1994, and the proposal to convene a Pan American Summit on Sustainable Development in Bolivia in 1996.

"Institutional renewal" is another area in which Canada has made a significant contribution to the OAS over the past five years. For example, Canada worked closely with Chile and Mexico to propose and implement a merger of the Inter-American Economic and Social Council and the Inter-American Council for Education, Science and Culture into one body, the Inter-American Council for Integral Development, through the Managua Protocol. Canada has also spearheaded an attempt to revitalize a structure initially set up in 1971 to provide

non-governmental organizations with a more formal role within the OAS.

Criticisms of Membership

The most serious reservations regarding Canada's effectiveness in the OAS appear to relate to the protection of human rights. Canada has been vocally critical of the human rights records of fellow member-states like El Salvador, Peru, Colombia and Nicaragua, and yet, like the United States, has not ratified the American Convention on Human Rights nor agreed to accept the jurisdiction of the Inter-American Court of Human Rights.

Harold Hickman, Counsellor and Alternate Permanent Representative to the Canadian Mission to the OAS, indicates that Canada's delay in ratifying the Convention is attributable primarily to the division of constitutional powers in the Canadian federation. "Human rights falls mainly under provincial rather than

Canada has been vocally critical of the human rights records of fellow member-states like El Salvador, Peru, Colombia and Nicaragua, and yet, like the United States, has not ratified the American Convention on Human Rights nor agreed to accept the jurisdiction of the Inter-American Court of Human Rights.

federal jurisdiction," Hickman explains, "and while the federal government is the treaty-making authority, there is an understanding that whenever a treaty may affect provincial affairs, the federal government will carry out consultations with the provinces prior to ratification." Hickman also notes that consultations between the federal and provincial authorities over the Convention's ratification have been on-going for the past three and a half years, and that the next, and hopefully final, round of talks is "imminent."

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Indigenous Rights and Responsibilities for the Natural World

by Dean B. Suagee

Mother Earth is suffering, and American Indian tribes and other indigenous peoples have important work to do, defending her against destruction and helping her to heal. In many parts of the world, indigenous peoples are fighting to protect their homelands from the kinds of environmental destruction that some people call "development." In addition to opposing destruction, indigenous peoples have become involved in the global movement to fashion approaches to development that are environmentally sustainable. Many indigenous cultures provide living examples of sustainability over centuries or millennia, and some people in the industrialized world, myself included, have suggested that a great deal could be learned from the ways in which indigenous cultures provide for the material

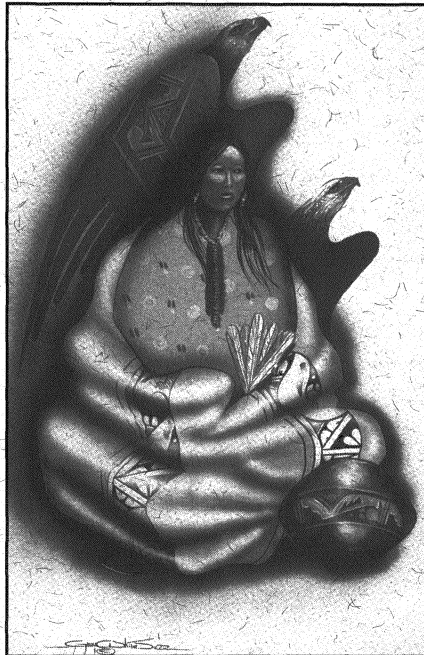
Indigenous peoples are human societies, and by virtue of this they are entitled to fundamental human rights.

needs of human communities and the value systems that underlie and reinforce material cultures. One basic value shared by many indigenous cultures holds that human communities have responsibilities to future generations and to the natural world.

Some might suggest that the most compelling reasons for promoting the survival of indigenous peoples are the potential benefits for the world. For example, many indigenous peoples live in environments rich in biodiversity, and their cultural knowledge of medicinal uses of plants can be transformed into medicines that save lives or help people regain their health, and yield huge profits for multinational pharmaceutical companies. Some environmental activists might suggest that the chances of stopping ecologically catastrophic megaproject boondoggles are significantly enhanced when indigenous peoples are prominently featured on the front lines (as was the case in shelving phase II of the James Bay project in Quebec), and that the world at large benefits when such boondoggles are stopped.

I think that there is a more compelling and more basic reason for people in the world at large, and especially for lawyers who practice international law, to be concerned with the survival of indigenous peoples—they are human societies, and by virtue of this they are entitled to fundamental human rights.

Over the last two decades, an international movement has emerged that seeks



Artwork by Gary C. White Deer, a Choctaw Indian artist.

recognition under international law for the human rights of indigenous peoples. Much of the action has occurred in Geneva at the annual meetings of the United Nations Working Group on

From the perspective of indigenous peoples, the most fundamental of human rights are collective, rather than individual.

Indigenous Populations, which was established in 1982 under the auspices of the UN Human Rights Commissions and the Sub-Commission on Prevention of Discrimination and Protection of Minorities. For much of its existence, the Working Group has focused most of its attention on one part of its mandate—the develop-

ment of standards to protect the human rights of indigenous peoples.

The simple fact that the Working Group was given this mandate constitutes recognition by the international community that existing human rights instruments are inadequate to protect the

Indian communities do better, live better, when the larger society respects their right of self-government and conveys some sense of appreciation for the fact that Indian cultures are part of the fabric of American society.

rights of indigenous peoples. From the perspective of indigenous peoples, the most fundamental of human rights are collective, rather than individual, such as the right to exist as distinct peoples, to be protected against physical and cultural genocide, to exercise self-government and freely determine for themselves their relationships with the states of the world, and to control the habitats and resources of their traditional homelands.

In its eleventh annual session in 1993, the Working Group approved the text of the draft Declaration on the Rights of Indigenous Peoples and forwarded the draft for eventual action by the UN General Assembly. The draft Declaration sets forth rights that, according to Article 42, constitute the "minimum standards for the survival, dignity and well-being of the indigenous peoples of the world." Throughout the forty-five articles that make up the draft Declaration, numerous provisions demonstrate the Working Group's acceptance of the importance of collective rights for indigenous peoples to carry out their distinct ways of life. Similarly, numerous provisions recognize the importance of the spiritual and cultural ties that indigenous peoples have to their homelands.

Two articles in particular, Articles 25 and 26, express some of the basic concerns of indigenous peoples for the protection of the natural world. Article 25 provides that indigenous peoples "have

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the right to maintain and strengthen their distinctive spiritual and material relationship with the lands, territories, waters and coastal seas" as well as the right "to uphold their responsibilities to future generations in this regard." Article 26 provides, in part, that "indigenous peoples have the right ... to the full recognition of their laws, traditions and customs, land-tenure systems and institutions for the development and management of resources." These articles taken together reflect the concerns of indigenous peoples for environmental protection, but not in the mold of a regulatory regime imposed from outside by a national or sub-national government that claims authority over an indigenous people and its homeland. Rather, for indigenous peoples, environmental protection is a human right that includes recognition of indigenous peoples' own governmental authority over their territories.

In my work with American Indian tribes, I have come to appreciate the diversity that exists among tribes, diversity that grows from many kinds of roots, including the diversity of the natural environment in which tribal cultures have developed and the different historical patterns of their dealings with the United States. In light of this diversity among tribes, I feel compelled to counsel caution against sweeping generalizations. But, I believe that the cultural value reflected in Article 25—that in their spiritual and material relationships with the natural world, indigenous peoples have responsibilities to future generations—is a very widely held value. Indigenous peoples regard the natural world as sacred, and they regard themselves as part of the natural world.

There is one other generalized lesson from the experience of American Indian tribes that I think rings true on a widespread basis. Indian communities do better, live better, when they govern themselves, and when the larger society

respects their right of self-government and conveys some sense of appreciation for the fact that Indian cultures are part of the fabric of American society. I think that there is no better way to show one's belief in the value of the cultures of indigenous peoples than by recognizing the fundamental right of these peoples to govern themselves and their territories. This is what the struggle for the human rights of indigenous peoples is all about. ☸

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Recognizing Indigenous Peoples' Rights in the Americas

by Robert Guitteau & Nadia Ezzelarab

The Inter-American Commission on Human Rights (IACHR) is currently revising a future draft declaration on the rights of indigenous populations in the Americas. The draft is being prepared at the request of the General Assembly of the Organization of American States (OAS), and is part of an on-going trend in the development of international human rights to address the inadequacies of existing human rights mechanisms vis a vis the complex survival needs of indigenous peoples.

International instruments, such as the Charter of the United Nations and the two international covenants addressing civil and political rights and economic, social and cultural rights, advance the right of self-determination of all peoples. These documents, however, do not address indigenous populations directly. Nonetheless, they lay the groundwork for the more recent development of legal protections for indigenous peoples. As noted by University of Iowa College of Law Professor, Jim Anaya, there is a "trend among states toward the express recognition that the principle of, or the right of, self-determination implies obligations on the part of states for indigenous peoples." Recently, the International

Labor Organization adopted the Convention Concerning Indigenous and Tribal Peoples in Independent Countries



(ILO 169), and the UN is currently developing a draft declaration on the rights of indigenous populations.

In formulating the draft instrument, the IACHR has taken into account ILO 169 (five of the six countries that ratified ILO 169 are members of the OAS - Bolivia, Colombia, Costa Rica, Mexico, and Paraguay) and the UN's draft declaration, while at the same time has tried to address conditions specific to the Americas.

Governments and indigenous organizations answered the first round of IACHR consultations by saying that indigenous peoples' rights are an implicit prerequisite to a functioning democratic society. Indigenous organizations demanded in their responses that the draft regard indigenous peoples' laws as an integral part of states' legal systems.

In addressing the legal effect of a declaration, Professor Anaya suggests that, "a declaration would be beneficial to the rights of indigenous peoples in that the Inter-American Commission and the Court and the OAS Member States would likely be held, as a practical matter, to the standards in the declaration." While the declaration will not have the same legal standing as a treaty, its applicability will compare to that of a UN General

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Toward an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

by Rochus Pronk

The Vienna Declaration and Program of Action adopted at the Vienna World Conference on Human Rights in 1993 states that "all human rights are universal, indivisible and interdependent and interrelated." The Program of action further contains an important paragraph in relation to the promotion of economic, social and cultural rights. It "encourages" the UN Commission on Human Rights, in cooperation with the UN Committee on Economic, Social and Cultural Rights (the Committee), to continue to examine the possibilities of developing optional protocols to the International Covenant on Economic, Social and Cultural Rights (ICESCR). In December 1994, Philip Alston, Chairman of the Committee, submitted a report entitled "Draft optional protocol providing for the consideration of communications." Article 2 of this Draft Optional Protocol gives any individual or group claiming to be a victim of a violation of any rights recognized in the ICESCR the right to submit a written communication to the Committee for examination.

Under Article 2 of the ICESCR State Parties agree to take steps to the maximum of their available resources, "with a

At the heart of the political unwillingness to accept the right of individual complaints, with respect to economic, social and cultural rights, is the question of justiciability of these rights.

view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means." In the past, this wording has generally been interpreted as an evolving program depending upon the goodwill and resources of states rather than an immediate binding legal obligation with regard to the rights in question. Under the current system of supervision, State Parties are only obliged to submit reports of measures adopted for transmission to the Economic and Social Council of the

United Nations. Nevertheless, with approximately one-fifth of the world's population still afflicted by poverty, hunger, disease, illiteracy and other kinds of economic and social insecurity, the time has perhaps come to strengthen the supervisory mechanism of the ICESCR. The Draft Optional Protocol that was submitted by Alston is a step in that direction.

Overcoming Political Resistance

Before the Alston proposal is adopted, however, there is the political problem of mustering the necessary support for an optional protocol to the ICESCR. As of December 31, 1992, sixty-seven states have ratified the Additional Protocol to the International Covenant on Civil and Political Rights, which provides a complaint mechanism for individuals in respect of violations of the Covenant. This is approximately half of the total number of States Parties to the International Covenant on Civil and Political Rights (ICCPR), indicating a reluctance on the part of states to accept individual complaint mechanisms. Moreover, governments may be less than willing to commit themselves to obligations that may involve considerable financial commitments. For example, Article 9 of the ICESCR establishes the right of everyone to social security. This right might require certain states to take positive action, for example allocating state funds to build up a comprehensive social security system, although they may be economically unwilling or unable to undertake such measures.

Regardless, at the heart of the political unwillingness to accept the right of individual complaints, with respect to economic, social and cultural rights, is the question of justiciability of these rights. Can a state be brought to justice for the policies that it has in the field of socio-economics? Can these socio-economic policies be narrowed down to individual rights, that can be judged on their merits? Any discussion on a draft optional protocol to the ICESCR answers this in the affirmative, and suggests that the old debate on the justiciability of these rights should not determine the adoption of a complaints mechanism. First, the idea of permitting complaints under an international procedure in relation to econom-

ic, social and cultural rights is in no way new or especially innovative given the precedents that exist within the ILO, UNESCO, the ECOSOC Resolution 1503 procedure, the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights (the Protocol of San Salvador of 1988), and proposals currently under consideration within the Council of Europe. Moreover, if the indivisibility, interdependence and interrelatedness of the civil and political rights and the social and economic rights is to be upheld, it is essential that a complaint procedure be established under the ICESCR, thereby redressing the imbalance that presently exists between the two instruments.

The experts agreed that none of the rights laid down in the Covenant should be excluded from the individual complaint mechanism.

A further argument against the possible political unwillingness to adopt an optional protocol to the ICESCR is that such an instrument, if similar to the Additional Protocol to the ICCPR, would not involve public determination of the issue on a judicial basis. Rather, it would be a mechanism through which individuals could expose alleged violations or breaches of the ICESCR, which would then be thoroughly investigated by the competent United Nations organs. The complaints procedure would result either in confidential communications with the State concerned, a friendly settlement, or in direct recommendations by the Committee aimed at remedying the violation and preventing its recurrence. States would be under an obligation to implement such recommendations. In the end, however, the State would retain ultimate control over what action to take in response to any views adopted by the Committee. Thus, there would be no real enforcement mechanism.

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Overview of the Draft Protocol

The receivability and admissibility requirements under the Alston proposal are identical to the requirements under the Additional Protocol to the ICCPR. Most important in this respect is the inadmissibility of anonymous communications. Unlike the Protocol to the ICCPR, however, the Alston Draft contains a specific provision for the request of "interim measures" to be taken by the state while the Committee is deciding upon the merits of the complaint "and as may be necessary to preserve the status quo or to avoid irreparable harm." The ICESCR Draft Protocol also contains a three month time limit within which the receiving state must respond to information received from the Committee. Further, in contrast to the ICCPR Protocol, the Alston Draft also states that the Committee may not only examine information made available to it by the author of the complaint and the State Party concerned, but also all other information obtained from other sources.

Where the Committee determines that a State Party has failed to give effect to its obligations under the ICESCR, the Committee may recommend that the State Party remedy any violation and prevent its recurrence, and State Parties "shall implement" any such recommendations. Similar to the ICCPR Protocol there is no mechanism to force states to comply with the recommendations. The Draft Protocol also provides for "follow up measures" through which the Committee can further encourage State Parties to give effect to its views and recommendations. Under these measures the Committee may invite a State Party to further discuss the measures the State Party has taken to give effect to the Committee's views or recommendations. Also, the Committee may invite State Parties concerned to include in their reports under Article 16 of the Covenant details of any measures taken in response to the Committee's views and recommendations. Finally the Committee is required to include in its annual report an account of the communications and the entire examination including the responses of the State Party to the views and recommendations of the Committee. The remaining provisions of the Draft Optional Protocol are identical to the Protocol Additional to the ICCPR.

as imposing the same punishments for the same crimes, regardless of which side perpetrated the atrocity. "No side would be immune from prosecution," stated Goldstone.

"To talk about people who are accused of having committed multiple murders, rapes, and torture of many people as little fish, is demeaning to the victims."

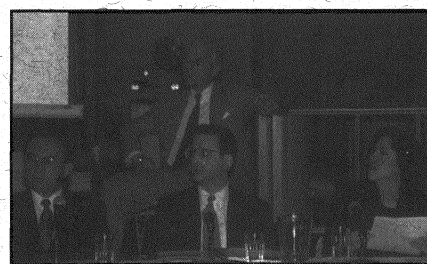
Goldstone further acknowledged that it will be difficult to get all of those indicted before the Tribunal. He pointed out, however, that under Rule 61 of the Rules and Procedures of the Tribunal, a "super indictment" was available. This means that if an indicted defendant fails to appear, the prosecution could request that the indictment be confirmed by a panel of 3 judges. Once the indictment was confirmed, the accused would become an "international fugitive," an outlaw in almost every country in the world. Goldstone stated that the super-indictment could be enforced through the use of UN Security Council sanctions against any nation that shelters the accused. He also noted that any national leaders who might be indicted would eventually have to travel because of their responsibilities, and therefore would likely be arrested.

Secretary Shattuck, in his response, praised Goldstone and the Tribunal's work. He indicated that the United States would continue its commitment to the Tribunal's work, and noted that the U.S. government was the major advocate for the creation of the Tribunal. Shattuck also confirmed that the Clinton Administration was unwilling to trade impunity for peace during the peace process and stated that the Tribunal was part of an enterprise to create instruments of international accountability and the rule of law. He stressed that it is essential that the Yugoslavia and Rwanda Tribunals succeed in their tasks because this would send a message that the international community will not tolerate impunity.

In addressing the legal difficulties faced by the Tribunal, Professor Orentlicher indicated that this Tribunal would be expanding on the Nuremberg

trials in terms of the development of international law. In particular, the Tribunal would need to define crimes identified at Nuremberg, and to decide whether crimes committed during internal conflicts could be tried by an international tribunal. Orentlicher stated that the Nuremberg trials had the benefit of victors' justice which, despite weaknesses, ensured that the defendants were captured and brought before the court.

In his presentation, Tom Warrick discussed the continued financial problems plaguing the Tribunal and indicated that the Tribunal still lacked the funds necessary for the collection of sufficient evidence to try crimes against humanity. Warrick expressed disappointment with



Gabriel Eckstein

(front row, left to right) Justice Richard Goldstone; Tom Warrick; Professor Diane Orentlicher; (back row) Professor Robert Goldman

the general lack of logistical and financial support for the Tribunal by the international community, especially on the part of European governments.

All of the panelists at the event recognized the daunting nature of the task faced by the Tribunal. At the same time,

The Nuremberg trials had the benefit of victors' justice which, despite weaknesses, ensured that the defendants were captured and brought before the court.

they also emphasized the need for the Tribunal to succeed in its efforts to bring justice to the worn-torn region that was once Yugoslavia, not only for the sake of the people of Bosnia and Croatia, but also for the future security of the international community as a whole. ☉

aspects of nature to an oversimplified cost-benefit evaluation. Staunch environmentalists consider the intrinsic value of nature as worthy of protection of its own right, and contend that whereas human beings are but one component of a complex global ecosystem, human rights should be encompassed within the broader goal of preserving nature in its entirety.

On a more functional level, Neil Popovic of the Sierra Club Legal Defense Fund (SCLDF) believes that the lack of cooperation is due in part to the fact that "many of the traditional human rights groups have narrowly defined mandates." He notes as an example that Amnesty International focuses primarily on issues related to torture and prisoners of conscience. Similarly, environmental groups like Greenpeace are constrained to work within their own self-limiting criteria and objectives.

Juan Mendez of Human Rights Watch believes, however, that these organizations' narrow mandates are not necessarily counter-productive. He contends that "we need to have a limited mandate in order to be effective," otherwise the organization's efforts "will be completely diluted." Similarly, Dinah Shelton, Santa Clara University College of Law Professor, asserts that, "if everyone was trying to do the same thing, there would be a lot of wasted energy."

Shelton also believes that the more dominant barrier to cooperation among environmentalists and human rights activists "is not so much the scope of the mandates as the lack of knowledge about

receptive to expanding their mandates. According to Joe Eldridge of the Lawyers Committee on Human Rights, there are those in both communities who are interested in learning from each other's experiences. Shelton explains that where the human rights and environmental protection groups have converged, they have "used each other's disciplines as mechanisms for achieving their own ends. In other words, human rights groups have begun to use environmental protection mechanisms to advance specific human rights, and environmentalists have begun to use human rights mechanisms for protecting the environment." When human rights groups, for example, decided to address the impact of World Bank development policies on human rights, they adapted strategies used by environmentalists to lobby for the reform of the Bank.

This exchange of strategies has been especially prominent in cases related to the plight of indigenous peoples. SCLDF, for instance, is currently arguing a case before the Inter-American Court of Human Rights, on behalf of Ecuador's indigenous community, that calls for a moratorium on oil exploration in parts of the country. SCLDF contends that such operations may result in severe environmental degradation, which, in turn, may interfere with the ability of the indigenous population to maintain its traditional way of life.

Although this interaction may safeguard indigenous peoples' communal rights to a certain way of life, the exchange of strategy does not address the individual human rights of indigenous peoples, such as the right to property or health, within the context of their environment. Similarly, when human rights mechanisms are used to resolve individual human rights abuses perpetrated against indigenous communities, they often are inadequate to deal with the underlying environmental context of the violations. As an example, Mendez concedes that the objections of Human Rights Watch to the Brazilian government's violent response to the protests of the Macuxi Indian, who were evicted from their traditional homeland to make way for a hydroelectric project, focussed solely on the protestors' civil rights. The organization did not consider or address the underlying issues of the Indians' existence in their traditional forest home or the state of that home.

Cases involving indigenous peoples, however, do not fully address the issues at the crux of the debate on the integration

of human rights and environmental protection principles. Rather than grapple with the underlying premise that each individual member of humanity should have the right to maintain a certain quality of life as a result of adequate environmental conditions, the cases tend to focus on the indigenous peoples' right to maintain a traditional way of life as a community dependent on their surrounding environment.

Fundamental to the nexus of human rights and environmental protection is the premise that the two areas enjoy a symbiotic relationship. The Draft Declaration of Principles on Human Rights and the Environment, which was attached to the report of the Special Rapporteur, provides that "human rights, an ecologically sound environment, sustainable development and peace are interdependent and indivis-

It would be "short-sighted to try to exclude the environmental component from the human rights agenda," and vice versa as "the protection of one leads to the protection of the other."

ible." Concurring with this declaration, Popovic adds that there is a reciprocal relationship between human rights and environmental protection. He argues that it would be "short-sighted to try to exclude the environmental component from the human rights agenda," and vice versa as "the protection of one leads to the protection of the other."

To the extent that pollution and other forms of environmental degradation endanger life, health, food, and shelter, they also constitute a threat to established human rights. It is easily conceived that conditions of serious water or air pollution can cause significant health concerns, such as dysentery, typhoid, asthma, birth defects, and cancer, and may even result in death. Equally, where human rights guarantees are most lacking, such as in many developing nations, efforts aimed at preserving the environment are typically at their weakest. President Bill Clinton acknowledged this viewpoint in a 1992 pre-election speech: "It is no accident that in those countries where the environment has been most devastated, human suffering is the most severe; where there is free-

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"Human rights groups have begun to use environmental protection mechanisms to advance specific human rights, and environmentalists have begun to use human rights mechanisms for protecting the environment."

both subjects." She claims that few environmental groups have expertise in human rights issues and few human rights groups have the knowledge to address environmental concerns.

Nevertheless, some environmental and human rights organizations have been

dom of expression and economic pursuit, there is also determination to use natural resources more wisely."

One area in which human rights groups and environmentalists have succeeded in presenting a unified front is in the social justice arena. This field encompasses such concerns as development, peace, and poverty; issues that both camps have realized must be addressed before their own agendas can be furthered. Within this context, reform of the World Bank,

"The application of human rights law and institutions to environmental problems is really no more than a new way of thinking about well-established concepts."

seen as fundamental to the alleviation of much of the social plight of the develop-

ing world, constituted a shared agenda on which environmentalists and human rights activists combined to campaign on common ground.

The integration of the mandates of both communities, however, remains the unresolved challenge. Popovic contends that "the application of human rights law and institutions to environmental problems is really no more than a new way of thinking about well-established concepts." The same can be said for the use of environmental law to address basic human rights conditions. The refusal to adopt this new perspective, however, has led the United States and other industrialized nations to oppose the integration of environmental rights and human rights into a common agenda. They claim that the human rights plate is already overburdened and the addition of new rights would be counter-productive and would dilute the impact of current human rights and environmental protection efforts. They also question whether environmen-

tal issues can be appropriately and adequately addressed by the human rights legal regime and vice versa. Nevertheless,

"If environmental rights were formally recognized, no country in the world, neither North nor South, would be invulnerable to accusations of human rights abuses."

these nations' discomfort with the merger of human rights and environmental protection may have an alternative rationale. According to Popovic, "if environmental rights were formally recognized, no country in the world, neither North nor South, would be invulnerable to accusations of human rights abuses." ■

ALUMNUS PROFILE

Alumnus Pursues Human Rights Through Democratization

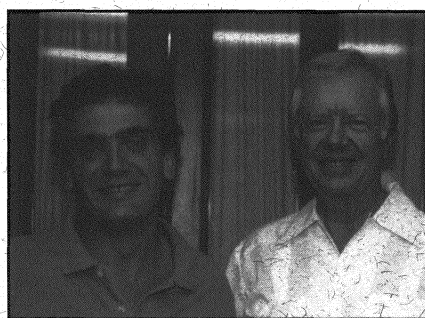
by Karen Graziano

Santiago Canton, LL.M. '89, a native of Argentina and a graduate of the University of Buenos Aires Law School, began his career at the National Democratic Institute (NDI) for International Affairs as an intern during his first semester at the Washington College of Law (WCL). Canton is now Director of NDI's Latin American Program.

As a student Canton was interested in human rights as well as international and criminal law. "This combination of interests led me directly to democratization and NDI," says Canton. "To work on promoting human rights was a goal of mine," he explains, "and now I achieve this goal every day at work."

NDI's mission is to promote democracy in concrete ways throughout the world. It currently manages democratic development programs in more than 80 countries, including 11 in Latin America and the Caribbean. NDI trains political parties in organizational skills, reviews election processes and teaches local people monitoring techniques, strengthens local governments through training programs, and seeks to improve relations between civil and military leaders. "The people in

the country request NDI training and support, and we offer them our expertise and that of people from all over the world who have had similar experiences in their own countries."



Santiago Canton with President Jimmy Carter

According to Canton, democratization in the 80's was more profound than in the past, especially in the Western Hemisphere. He explains that the distinguishing factors are the increasingly positive role of the international community, "cleaner" elections, a better understanding of the military, and, above all, the participation of local people through civic groups, which instills human rights into

the very fabric of a country's institutional structure. Canton respects people such as these who have lived with fear and oppression for decades, yet have the courage and strength to fight peacefully for democracy.

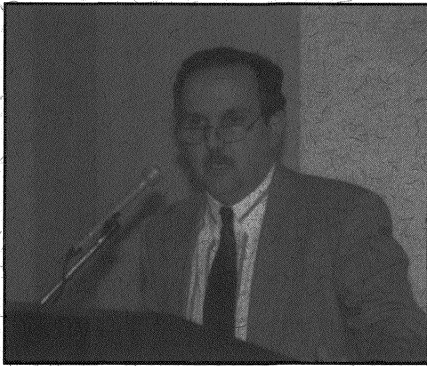
Canton's most memorable experience with NDI occurred while working with former President Carter in the Dominican Republic: "A man came up to a member of our delegation, and asked that we thank President Carter, who had saved his life by pressuring the Uruguayan dictatorship to respect human rights while he was a political prisoner. Experiences like these," says Canton, "make you realize the positive role you can play in another person's life, and motivate you to try all the harder to achieve that goal."

Six years after obtaining his LL.M., Canton looks back fondly on his experience at WCL. He attributes his own achievements to his LL.M. studies and the guidance of Professors Grossman and Goldman. "When you have the best there are in the field of human rights as your mentors, your eyes open up to a completely different world," he says. ■

Peace, Human Rights and Accountability—The Need for a New Doctrine on International Intervention

by Juan E. Méndez

In the post-Cold War, the international community has been forced to deal with complex emergencies in multiple trouble spots. Each crisis has presented different challenges and, by any measure, the United Nations' track record is mixed at best. Yet one particular failure, in Somalia, seems to dominate the thinking. There are certainly lessons to be learned from the failed intervention in Somalia, but the world seems to be learning the wrong lessons. Because of Somalia, the United Nations bureaucracy now insists that outside assistance will be provided only if parties to a conflict express-



Gabriel Ekstein

Juan Méndez

ly consent to it. European skeptics have found new currency to their views that conflict in far-off lands is "ancestral" and "centuries-old" and that it is a naïve mistake to attempt even to address their most immediate present consequences. In the United States, neo-isolationism feeds on the example of Somalia to press for a foreign policy that yearns for the ability to exercise power without accepting the responsibilities of leadership. The result is a dangerous tendency by the world community to shirk its duty to prevent and punish the crime of genocide (as in Rwanda), to look the other way while grave breaches of the laws of war are committed (as in Chechnya) or to acquiesce in the impunity of crimes against humanity (as in the promotion of shameless amnesties as a quick fix in Haiti).

There have certainly been serious mistakes in the way the international com-

International Intervention in Intrastate Conflict

The current attempt by the Republic of Chechnya to break away from Russia, and the strife as it initially arose in the former Yugoslavia, are two of the most glaring examples of the post-Cold War rise in intrastate ethnic conflicts. Despite the persistent increase in such disputes, the international community does not appear to have developed a coordinated or consistent policy in how to respond to the difficulties created by these kinds of conflicts. For example, the fighting in both Yugoslavia and Chechnya have been characterized by violations of human rights and humanitarian law, and yet the international community has taken very different approaches to each conflict, intervening extensively in the former controversy through embargoes and military force, and taking a largely hands-off approach to the latter conflict as an "internal Russian affair."

This apparent inconsistency in approach by the international community, and the controversial results of the United Nations' intervention in the former Yugoslavia and Somalia, provide an effective context in which to address the question: what role can and should the international community play in intrastate ethnic conflicts?

Juan Méndez is General Counsel to Human Rights Watch and former Executive Director of Americas Watch. Since 1982, Méndez has participated in numerous on-site missions to investigate violations of international humanitarian law, and has authored many of the resulting reports as well as articles on various human rights issues.

John Bolton is the President of the National Policy Forum in Washington, D.C. Bolton was formerly Assistant Secretary of State for International Organization Affairs in the Bush Administration, where he formulated, articulated and implemented U.S. policy within the UN system and directed U.S. policy during the Persian Gulf War.

munity has responded to crises in the last few years. But there has also been a reluctance to learn from some moderate successes. In El Salvador, in Haiti and in Cambodia, for example, the efforts of the United Nations have succeeded not only in putting an end to conflict, precarious as that end might seem even now, but also in establishing the bases for democratic institutions that offer the best hope for peaceful resolution of conflict in future years. In all three examples, the UN incorporated human rights principles during the negotiations and later

The UN has refused to develop a "doctrine" by which human rights and accountability would become an essential part of any peace process.

found creative mechanisms for verification on the ground. A similar approach is showing some promise in Guatemala as this essay is being written. Typically, civilian monitors are sent to verify compli-

ance by all parties with carefully crafted accords that apply universal human rights standards to the realities on the ground. With respect to egregious abuses of the most recent past, the UN assists in the process of reconciliation by supporting "truth commissions" or similar forms of coming to grips with the demands of truth and justice.

In spite of those successes, the UN has refused to develop a "doctrine" by which human rights and accountability would become an essential part of any peace process. In Somalia, human rights and accountability were conspicuously left out of the UN-brokered negotiations between the many warring factions. There was a token and completely meaningless assignment of responsibility for human rights to one official in the extensive field operation, and there was never any attempt to monitor the behavior of the forces brought in under the UN flag for compliance with international humanitarian law. Human rights verification and insistence on accountability have been similarly left out by the UN in Angola.

In his most recent policy statement about peace-keeping, Secretary General

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Intrastate Ethnic Conflicts and American Interests

by John R. Bolton

It is fashionable in academic settings and Washington salons to discuss the correction of international human rights abuses as a cost-free exercise, both human and financial, propelled by higher moral imperatives that brook no toleration of practical obstacles. Policy objections based upon non-human rights considerations are frequently dismissed from discussion contemptuously as unworthy of serious treatment. Unfortunately, this approach to human rights, especially in the context of the United States' international involvement, obscures far more than it clarifies.

Ethnic and religious conflicts within states represent the most likely sources of violence, death and gross violations of human rights around the world. While

conflicts more likely by removing the totalitarian restraints that previously held them in check. The lack of congruence between international boundaries and ethnic population concentrations in many parts of the world similarly provides another source of tensions and potential conflict.

In country after country, such as the former Soviet Union, ex-Yugoslavia, Somalia and Haiti, ethnic and religious hostility, anarchy and class warfare threaten the hold of fragile governments. Both in the run-up to, during, and in the aftermath of military hostilities associated with such divisions, the prospects for human rights abuses are obviously substantial, as are the difficulties in attempting to deal with them. Accordingly, while it may be appropriate to ask what the international response to such intrastate conflicts should be, it is also important to understand the limitations and costs associated with intervening to try to resolve them, or even to bring them to a cease fire. Moreover, it should not be surprising if the responses to such questions dictate differing responses in different conflicts.

Perhaps the most often-suggested vehicle to address international ethnic and religious turmoil is the United Nations, through such devices as peacekeeping, or "peace enforcement," forces authorized by the Security Council, the provision of humanitarian assistance by UN specialized agencies, elements of the Red Cross movement or non-governmental organizations, war crimes tribunals, or other formulations, all of which generally involve the oversight, if not the actual, very active participation, of the Council. Although regional organizations might also be candidates for such roles, few realistic observers believe that any existing regional organizations actually have the wherewithal to accomplish anything

in contexts where there is even the slightest prospect for complexity or ambiguity. Thus, any assessment of the possibility of successful international involvement in intrastate ethnic or religious conflicts must turn on the suitability and efficacy of a role for the Security Council, albeit

Any assessment of the possibility of successful international involvement in intrastate ethnic or religious conflicts must turn on the suitability and efficacy of a role for the Security Council.

frequently operating in conjunction with other elements of the UN system, such as the UN High Commissioner for Refugees, or the UN Human Rights Commission.

Recent developments in former Yugoslavia and Somalia, and fears of a repetition of such problems in Haiti and elsewhere, have suggested to many Americans that such involvement is not generally in the best national interests of the United States, particularly if becoming involved implies a direct commitment of U.S. military forces as part of an international peacekeeping force.

Republican-sponsored bills in Congress, now under consideration, would substantially reorder U.S. participation in UN peacekeeping operations to take account of these lessons. Not surprisingly, these proposals have drawn fire from both self-described human rights watchers and UN enthusiasts, with some critics implying that contemporary Republicans are not even being true to their Cold War ideals, and that they need lessons in internationalism. These criticisms are misplaced and potentially dangerous, especially for the young Americans in uniform who might be sent off to chase academic illusions in the name of human rights.

Careful American corporate lawyers drafted the UN Charter, and specifically the important provisions governing the jurisdiction of the Security Council. Internationalists like John Foster Dulles wrote in non-utopian language about

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John Bolton

Pete Souza

conflicts between states are far from reaching the "end of history," as recent clashes between Ecuador and Peru, followed by border skirmishes between Venezuela and Columbia, compellingly demonstrate, they will likely be eclipsed in severity and frequency by intrastate warfare. The breakup of former ideological monoliths, themselves some of the worst abusers of human rights in history, has only made these ethnic and religious

Point/Counterpoint is a regular feature of *The Human Rights Brief*. The purpose of the section is to encourage meaningful, intellectual discussion on contemporary issues in human rights and humanitarian law through the presentation of two diverse, though not necessarily opposing, opinions on the subject at hand. Commentaries for the Point/Counterpoint section are generally solicited by *The Brief*, however, the Board of Editors welcomes all submissions, comments, and suggestions. The newsletter does not facilitate the exchange of the authors' compositions prior to publication. The views expressed in the Point/Counterpoint section are those of the authors and do not necessarily reflect those of *The Human Rights Brief*, the Center for Human Rights and Humanitarian Law, or their Directors or staff.

Boutros Boutros-Ghali did not include human rights or accountability as one of the conditions of UN involvement in disputes. He did, however, propose certain pre-requisites for such future ventures, mostly drawn from a sober assessment of the recent experiences. One significant condition demanded by the Secretary General is that the parties to the conflict must demonstrate a commitment to seek

By dampening unrealistic expectations, the UN in fact may be unwillingly contributing to the generation and expansion of future complex emergencies.

honorable solutions by expressly consenting to a UN role. It is easy to see that the lack of such consent was a decisive factor in Somalia and in Angola, at least at the time when Jonas Savimbi, leader of the National Union for the Total Independence of Angola, ignored the results of UN-monitored elections and resumed the war. Of course, consent must be sought and commitments demanded whenever possible. But erecting this as a condition amounts to a confession of impotence in those situations in which it is unrealistic to expect that consent, at least in the early stages of a crisis. Does it mean that the international community will let vulnerable populations die in man-made humanitarian catastrophes or in mass killings until one or the other party decides that there is no longer a political or military advantage to behaving in contempt for fundamental rights? If that is the case, this "doctrine" rewards uncivilized and ruthless conduct. By dampening unrealistic expectations, the UN in fact may be unwillingly contributing to the generation and expansion of future complex emergencies.

The UN also errs when it tries to exercise its traditional peace-keeping roles in situations where there are massive violations of human rights. In traditional peace-keeping, it is legitimate to expect both parties to a conflict to agree to the presence of a neutral force to ensure compliance with temporary arrangements. By definition, therefore, the peace-keepers must be scrupulously neutral to the conflict. This neutrality, however, is a hindrance when what is needed is the protection of innocent and helpless civilians who are at the mercy of a

government or a force bent on the commission of crimes against humanity. In Rwanda, for example, the conflict between the former government and the Rwandan Patriotic Front was no more than a distant backdrop to the real problem: genocide committed by pro-government forces against the Tutsi minority. Given the clear obligation in international law to prevent genocide, the international community should and could have found ways to save Tutsi lives while engaged in the peacekeeping. Instead, it found a pretext for inaction in the need to remain neutral in the internal conflict.

The theory of "age-old rivalries" is likewise also based on important grains of truth. It makes no sense to try to correct situations without an attempt to understand them. But too frequently these explanations are just as simplistic and superficial as the attitudes they rail against. Significantly, they fail to take into account that age-old rivalries and distrust are usually manipulated by politicians and demagogues for short-term gain to fuel the fires of conflict by exploiting ignorance and fear of the future among communities. Even if age-old rivalries are hard to solve in the short term, there is certainly something that the international community can and should do to prevent their descent into genocide, crimes against humanity, or war crimes. This mind set about age-old conflict is what prevails so far in the international community's response to the former Yugoslavia, and it explains to a large extent the failure to obtain results despite extensive military, humanitarian, and diplomatic intervention. Not only

The international community should and could have found ways to save Tutsi lives while engaged in the peace-keeping.

has it been impossible to prevent ethnic cleansing, but the significant effort to secure accountability embodied in the creation of a war crimes tribunal has been marred by foot-dragging and reluctance in providing it with adequate funding. Those early problems seem to have been overcome, but the fate of the tribunal is still threatened by attempts to throw it in as a bargaining chip in exchange for peace. An amnesty that would immunize the killers from prosecution is recurrently mentioned as a possible carrot for the parties to accept a

peace plan. It is not only that this "peace" that does not deserve its name would be a shameful resolution to the conflict; more immediately, it encourages continued fighting and undermines the authority and credibility of a tribunal created with the lofty goal of standing up to genocide in our time.

The current winds of neo-isolationism in the United States go far beyond the lessons of Somalia. In fact, they attempt to prevent U.S. participation even in those instances when the venture has been remarkably successful and risk-free, as in Haiti. In this sense, they betray a lack of interest or concern for the spread

Age-old rivalries and distrust are usually manipulated by politicians and demagogues for short-term gain to fuel the fires of conflict by exploiting ignorance and fear of the future among communities.

of democracy, as if poor and underdeveloped nations were not entitled to the benefits of civil and political freedom. This way of thinking about U.S. responsibilities abroad would have a healthy effect on the debate if it contributed a sense of the limitations of what armed forces can do in complex emergencies and the dangers of excessive reliance on military solutions. Unfortunately, these voices rarely scrutinize the role the military may have played in the mistakes made on the ground and instead blame all of the problems on misguided political decisions.

The problem with this tendency to withdraw from far-off and little understood problems is that it threatens to bring down not only the peace-keeping effort but all other forms of "civilian" field operations that the international community can conduct. Lack of political and monetary support from the United States can doom civilian verification missions to monitor human rights abuses, initiatives to train and rebuild administration of justice programs so that failed states can begin to restore confidence in the institutions, truth commissions and similar efforts to show victims of massive abuse that their plight is not ignored, and similar programs designed to embark on a genuine process of reconciliation and reconstruction. If the United States turns its back on these moderately priced

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A New Doctrine, continued from previous page

but potentially highly successful ventures, even the fate of path-breaking efforts to establish a world-wide rule of law will suffer. The same pressures to disengage from conflict situations would be at work to undermine the two tribunals that have so far been created to deal with interna-

These voices rarely scrutinize the role the military may have played in the mistakes made on the ground and instead blame all of the problems on misguided political decisions.

tional crimes (former Yugoslavia and Rwanda). Their failure would breed more disaffection and hate between communities and encourage the killers to repeat their crimes, safe in the knowledge that there is no price to pay for them.

The world should certainly exercise restraint in the temptation to use military might to deal with complex emergencies. Yet, when the peace and security of mankind are threatened, there is clear international law that legitimizes the use of force. Similarly, the Genocide Convention makes it clear that the duty of the international community—and individually of each State party to the Convention—is to prevent and punish this crime. Therefore, at least when it comes to genocide, the international community must be ready to use force as a last resort to protect the lives of vulnerable and unprotected victims. This option must remain in the arsenal of the world leadership, to be used judiciously but firmly if need be. It is even more important for the United Nations and for countries that play a leadership role in world affairs to create and display an array of measures short of military intervention so that the latter is truly a measure of last resort.

UN insistence on consent and on its own misunderstood neutrality, callous

and culturally-determined conceits about the intractability of conflicts, and the

If the United States turns its back on these moderately priced but potentially highly successful ventures, even the fate of path-breaking efforts to establish a world-wide rule of law will suffer.

resurgent wave of neo-isolationism in the United States are trends that conspire against a sober and realistic assessment of recent experiences. Worse than that, they prompt an attitude of selfish and parochial skepticism about mankind's ability to solve the problems of man-made calamities. And in the end, this will result in another genocidal rampage going unchecked. 🌐

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what the Council's role should be, and implicitly what it should not. Their original intent, set out in the Charter's Preamble, was "to save succeeding genera-

In the present context, the UN's record hardly makes it a likely candidate for a successful human rights champion.

tions from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind." To that end, they charged the Security Council with responding to threats to, or breaches of "international peace and security," the buzz words that both empower and limit the Council's mandate.

Even in the face of massive problems for the UN, its supporters now want it to intervene to restore stability and prevent gross violations of human rights where governments (one shrinks from calling them "nation-states") around the world are unable to maintain for themselves. This sort of peacekeeping role, once called "nation building" in Somalia by the Clinton Administration, is very different both from the Security Council's role under the Charter, and from UN peace-

keeping between states that emerged occasionally when the Council was not grid-locked by the Cold War. To suggest otherwise is both historically inaccurate and dangerously flawed.

First, UN peacekeeping did nothing to keep regional conflicts out of the broader U.S.-Soviet conflict. Indeed, the very examples of UN successes most often cited, like Namibia, Cambodia, El Salvador, and Mozambique, were precisely the scenes of Cold War surrogate conflicts. Peaceful resolutions with UN intervention there became possible only as the Cold War receded, not the other way around. Moreover, all of these examples were principally U.S. diplomatic efforts implemented by the UN. Breathtakingly, the UN's supporters ignore the most profound and dangerous regional standoff of them all - for forty long years, the division of Europe. There, NATO prevailed, the Warsaw Pact collapsed, and the UN

The UN's founders did not set out to rid the world of tragedy.

was missing in action. Thus, in the present context, the UN's record hardly makes it a likely candidate for a successful human rights champion.

Second, the interventionist doctrine ignores the carefully circumscribed limits

of Security Council authority: international peace and security. Not in Somalia, not in Cambodia and not in Haiti did such a threat really exist. At best, former Yugoslavia is a mixed case, involving the

The absence of consent makes it harder both to carry out the humanitarian mission assigned to the UN, and to preserve the kind of objectivity necessary for any kind of human rights oversight.

breaking apart of one country in civil war, and the creation of several nascent new states. Even there, the long-feared outbreak of warfare throughout the Balkans (and the threat of what? World War III?) has yet to occur, belying any substantial international impact. Human rights activists sometimes concede that many of their preferred venues for UN involvement concern situations of "human" security that cause intense emotional reactions in distant capitals. Yet, they do not propose amending the Charter to encompass their expansive views, but simply ignore what the Framers drafted.

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The UN's founders, moreover, did not set out to rid the world of tragedy. That goal, humane though it may be, requires a higher power not present in the United Nations. This is not a cynical withdrawal from human rights concerns, but a hard-headed recognition that the UN itself is an organization of member governments.

Third, UN involvement in intrastate

What would be the international reaction if only a few of the human rights violators, and very low-level ones at that, were tried and convicted by the United Nations?

disputes almost always risks a lack of consent among the warring parties, the sine qua non of successful peacekeeping among states. When states are in conflict, there are typically identifiable governments, usually located in capitals governing territories with existing or former internationally accepted boundaries, with definitive command-and-control authority over their respective military establishments. In such circumstances, exemplified by the Israeli-Syrian truce along the Golan Heights, justifiably cited as a UN success story by diverse authorities who cannot agree on much else, a neutral UN-authorized peacekeeping force can often play a useful role.

By contrast, when the parties have neither stable governments nor territories, when their capitals are either portable or war zones, and where military commanders may either be the real governors, or independent, or both, it is no wonder that informed consent is hard to find. The absence of consent, as in the former Yugoslavia, makes it harder both to carry out the humanitarian mission assigned to the UN, and to preserve the kind of objectivity necessary for any kind of human rights oversight.

Fourth, there is an important and too-often-overlooked distinction between the kind of peacekeeping the UN has successfully achieved, such as in the Golan Heights, and the more muscular operations that the UN advocates apparently prefer in places like Bosnia and Somalia. UN peacekeepers have never been successfully deployed with anything like a war-fighting capability, and in many cases are only lightly or completely unarmed. The past two years have repeatedly demonstrated that peacekeepers cannot begin as peacekeepers, become peace

enforcers overnight, and then switch back again without any adverse consequences to themselves or the trouble-spot in which they serve.

It is legitimate to ask whether the "international community" can play a useful role in international ethnic conflicts short of military force, whether in the form of enforced sanctions or a military presence on the ground. For example, much attention has recently been devoted to efforts to operationalize a war crimes tribunal to adjudicate allegations of human violations in former Yugoslavia. One need not condone the practices of executions, ethnic cleansing, systematic rape as a tactic in warfare, torture or any other abuses, however, to wonder if show trials will really change much of anything.

During the Gulf Crisis, the Bush Administration carefully considered whether to try Iraqi leaders in absentia for war crimes committed during the invasion and occupation of Kuwait. Substantial evidence of such war crimes existed, both from eyewitnesses and in documentary and other forms, and the jurisdiction of Kuwaiti courts could not be challenged. Kuwait courts were considered preferable to courts established by the U.S.-led coalition to avoid the allegation that non-Arabs and non-Moslems were punishing Iraqis unfairly.

Nonetheless, after considerable internal debate, the Administration concluded that trials in absentia might actually be counterproductive. First, absent any mechanism to apprehend the defendants for punishment, the entire exercise might not only be irrelevant but might also undercut the credibility of the UN's opposition to human rights abuses. Second, convicting human rights abusers could well remove whatever incentives they might have to overthrow their abu-

Intrastate ethnic and religious conflict is not really within the legitimate domain of the Security Council, nor could it be without an expansion of the Council's jurisdiction and resources, neither of which is either likely or desirable.

sive masters and deliver the real war criminals for international prosecution. Third, there were doubts as to how impartial any trials would be perceived

internationally, when the defendants were not present to conduct their own defenses.

While the Administration was not squeamish about the due process rights of war criminals, there were legitimate concerns about how the trials might play into the propaganda campaigns of those opposed to the goals of the U.S.-led coalition. As a result, both the United States and the Security Council decided only to accumulate and preserve evidence for possible use at a future date, to be determined.

Ultimately, within states, so long as the nation-state system survives, people have to learn to live in peace with their fellow countrymen.

Much the same could be said in the case of human rights trials in former Yugoslavia. At present, only a very limited number of those accused of gross violations of human rights have been indicted or are actually in custody and accessible to UN tribunals, almost all of them being Serbs. Preparations for similar trials in Rwanda follow the same pattern. Whatever the contemporary rhetoric, these proceedings will be a far cry from Nuremberg. What, for example, would be the international reaction if only a few of the human rights violators, and very low-level ones at that, were tried and convicted by the United Nations? What would that indicate about the seriousness of the UN effort, and the commitment of the "international community?" The likely answers to these questions are not encouraging if the aim is to conduct trials for allegations of human rights violations other than for purely "feel good" reasons.

In short, the interventionist human-rights lament is badly flawed, both conceptually and operationally. Intrastate ethnic and religious conflict is not really within the legitimate domain of the Security Council, nor could it be without an expansion of the Council's jurisdiction and resources, neither of which is either likely or desirable. UN or other international measures less than military force are also unlikely to have a profound or sustained impact, at least in the foreseeable future.

The real solution to intrastate ethnic conflict is not, and probably never can

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American Interests, continued from previous page

be, the imposition of peace and stability from outside the zone of conflict itself. Ultimately, within states, so long as the nation-state system survives, people have to learn to live in peace with their fellow countrymen. They cannot be taught, and ethnic tranquillity cannot be imposed

from the outside, no matter how high-minded the motives of the outsiders, or how tragic the situation they are trying to alleviate. This reality may not be pretty, but it is accurate. ☉



WCL Professor Participates in Election Monitoring in Nepal

by Angela Collier

Andrew Popper, Associate Dean of Administration and WCL Law Professor, travelled to Nepal in November 1994 to monitor the country's mid-term elections. The monitoring program was conducted under the direction of the National Election Observation Commission (NEOC), an indigenous Nepalese organization, and involved observers from every continent.

The observers were divided into teams of three or four and dispatched throughout the country. Popper, who acted as spokesperson for his team, was assigned to monitor the election process in vari-

The election was "moving, irregular, exciting, full of hope and democracy, but at the same time full of problems."

ous polling stations in the province of Dhading. Following the election, a coordinating committee assessed the teams' reports and made recommendations to the Nepalese Congress regarding election certification.

Popper recalls that the election was "moving, irregular, exciting, full of hope

"In a three-year-old democracy, even twenty percent voter fraud may have to be tolerable.

and democracy, but at the same time full of problems." He believes that voters were intelligent and highly interested in the election process, but lacked good sources of information on the issues and ideologies of the parties. Popper notes

that some of the election practices were questionable, including under-age voting, rough treatment by riot police, and the breaking of some ballot-box seals. "The very form of government may hang in the balance when such forces are in conflict," states Popper. "Thus, the election becomes a civil form of decision-making, in sharp contrast to violent revolution."

Despite the problems, the NEOC Coordinating Committee ultimately recommended certification of the election in which the Marxist-Leninist party received a majority of votes. Concurring with the NEOC's decision, Popper states, "Besides the fraud, I was taken by how strongly everyone felt they were affecting an outcome." He adds, "In a three-year-old democracy, even twenty percent voter fraud may have to be tolerable. There were improprieties, but they did not reach the level to de-certify." Overall, Popper recalls his experience in Nepal as rewarding. "It is humbling and a privilege to be part of a process that goes to the heart of public governance." ☉



Dean Popper with voters at the Gajuri polling station in Dhading province, Nepal

Dean Andrew Popper



Local officials at the Negalpanini polling station in Dhading province, Nepal review the registration qualifications of voters. Nonetheless, some individuals below the legal voting age were permitted to vote.

Dean Andrew Popper

Indigenous Peoples' Rights,
continued from page 5

Assembly Resolution. That is, the declaration, once approved, can be used by adjudicative and administrative bodies for its interpretive value of indigenous peoples' rights as a reflection of the collective "state of mind" of the Member-States of the OAS. ☉

The EP annual report is a comprehensive overview of human rights conditions in the European Union, as well as in the world in general. In recent years, similar reports and other declarations on the issue of human rights, adopted by representatives of the European Union's 15 Member States in the EP, have caused ideological disputes and controversies within the European institutions.

The draft report concerning the situation in the Union, which was mainly formulated by Socialist, Communist, and Green members of the Parliament, states that the EP "is disturbed over indications of maltreatment in police custody and

The controversial report was declared confidential and is no longer available for public dissemination.

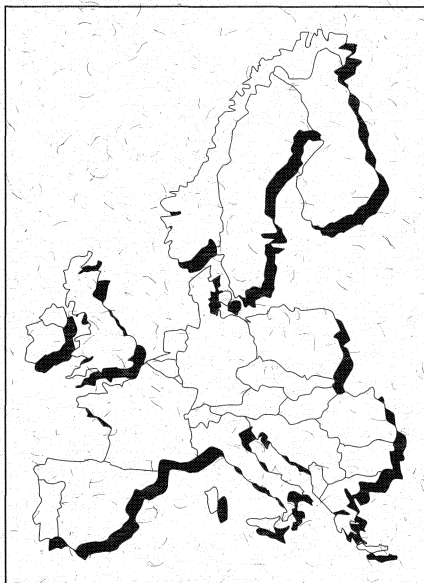
prisons in connection with racist prejudices, which are aimed directly at asylum seekers, citizens from non-member countries or ethnic minorities in several Member States." It further states that "the Union is not credible if it calls upon the developing countries to obey human rights, although several million people in the Union live in fear of being verbally or physically maltreated or systematically molested because they are considered to be different." The draft also calls for a general amnesty for crimes committed by members of the Stasi, the former powerful East German secret police.

The draft, consisting of 140 points, drew criticism from several directions, mainly from conservatives. They argue that with this report, the EP is trying to address domestic issues such as refugee law, asylum law and questions of ethnic minorities at the supranational European level, which is not within the Parliament's mandate. Furthermore, many politicians are disgruntled by the "inflation of human rights declarations in the European Parliament," according to one member of the EP.

Behind the dispute over the report, however, lies a much more fundamental conflict over how Europeans should define human rights, and in particular, whether human rights include second-generation social rights or even collective third-generation rights.

The EP, whose legislative power includes mainly veto but no initiative

rights, is following a broad and extensive interpretation of human rights that is



supported mainly by socialist and social-democratic parliamentarians. It includes poverty, unemployment, rights for women, children, the disabled, refugees and immigrants as well as ideas of "third generation human rights" (e.g. right to peace, development, environment and solidarity rights). In a 1989 Declaration of Basic Rights and Basic Freedoms, the EP listed a catalog of rights that included several social rights and a call for environmental protection. In its 1992 report, the Parliament demanded the implementation of a system to guarantee minimum standards of housing, social security and medical treatment—areas which are indispensable for human habitation, but which require intensive governmental measures.

Although the European Court of Human Rights has limited its jurisprudence to the scope of the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols, the Court takes a progressive attitude toward the issue of human rights. It is regarded by many as the most progressive court in Europe for the development of social human rights. Although social rights were deliberately omitted from the Convention, the Court has ruled on several occasions that the Convention is a "living instrument which must be interpreted in the light of present-day conditions" and has extended its interpretation to include social rights wherever possible. The Court, however, has made it clear that it can only interpret the Convention, not create new

rights: "The evolutive interpretation of the Convention can only concern those areas with which it deals. The Convention is a selective instrument adopted to guarantee certain human rights ... Therefore, the interpretation cannot be so dynamic as to amount to the invention of new rights not guaranteed by the Convention." For this reason, the Court only recognizes those social rights which have their foundation in the Convention. Nevertheless, within this framework, it is willing to interpret the rights broadly. This approach shows that the Court is dominated by a majority of judges from civil law countries who see their role more in interpreting rather than making law.

The European Commission for Human Rights reached a similar conclusion when it stated that while some articles of the Convention "may require positive action from contracting states in certain circumstances, it is inevitable that when questions of policy and implementation arise, considerable discretion must be left to the policy maker."

Some national courts in Europe have a similarly reluctant approach, if not more so, towards social and cultural rights. For example, the German Federal Constitutional Court, the Bundesverfassungsgericht, has stated in the past that "the

"The Union is not credible if it calls upon the developing countries to obey human rights, although several million people in the Union live in fear of being verbally or physically maltreated."

more a modern state is turning to social security and cultural promotion of its citizens, the more the demand of a civil rights guarantee as a participatory right of the individual to receive state measures and benefits steps beside the primary goal of assuring basic civil liberties in the relationship between the citizens and the government." The Court, however, noted that "generally, one has to recognize that even in a modern social state, it is left to the decision of the legislator, who can not be challenged in court, if and how the state will grant active (social) rights."

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Europeans Disagree,
continued from previous page

The European Council, as the main decision-maker in the Union, has made it clear that it does not intend to make rights one of its major policy issues within the Union. For example, the European Union has not yet adopted the European Convention of Human Rights,

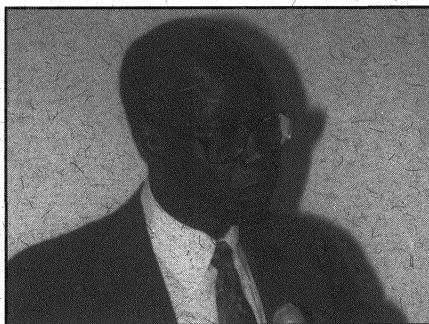
"It is not acceptable to report about the human rights situation in the Union the same way as on the situation of human rights in totalitarian developing countries. We are not in Bangladesh."

although the EP has demanded that it do so many times. The European Union has also accepted the European Social Charter, but only as a politically, rather than a legally, binding document, and therefore no rights can be drawn from this document. And most recently, the Union set aside questions of human rights for economic and other political reasons to reach an agreement with Turkey for a customs union.

Conservative parties in the EP share and even go beyond the Council's position. Some EP-members, like German Christian Democrat, Hartmut Nassauer, take the view that the Parliament's human rights reports and declarations are a "door-opening of ideologising human rights. It must be clear that human rights first of all mean civil liberties and that there is still a difference between murder, racism and torture on the one hand, and the question of providing payable housing or adequate jobs on the other hand. It is not acceptable to report about the human rights situation in the Union the same way as on the situation of human rights in totalitarian developing countries. We are not in Bangladesh." ☉

Center Hosts Conferences

On April 10-11, 1995, the Center for Human Rights and Humanitarian Law and the American Red Cross, in cooperation with the International Committee of the Red Cross, hosted the Conference on International Humanitarian Law. Experts and scholars addressed key issues relating to the contemporary rele-



Representative of the UN Secretary General on Internally Displaced, Francis Deng, addresses International Humanitarian Law Conference

vance of international humanitarian law, with respect to UN peacekeeping activities; the gathering of evidence of humanitarian law violations; international displaced persons in armed conflicts; belligerents' duty to avoid civilian casualties; and the enforcement of humanitarian law by states and the international community.

On April 13, 1995, the Center, the International Legal Studies Program, and the Washington College of Law sponsored the second annual Conference on the Inter-American System for the Protection of Human Rights. The Conference convened jurist, diplomats, and human rights activist to analyze human rights violations in this hemisphere and the institutional response to these violations.

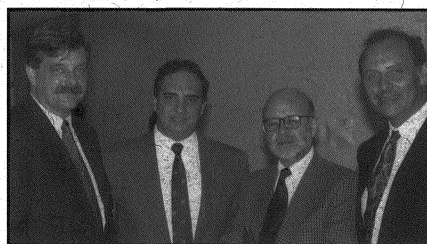
A complete review of the conferences was not possible in this issue of *The Human Rights Brief* due to publication deadlines. ☉



(left to right) Marco Sassoli, Deputy Head, Legal Division, ICRC; A.B. Clapman, Amnesty International, New York; Roy S. Lee, Principal Legal Officer, United Nations, New York; Lt. Steven Lepper, Deputy Counsel to the Chairman, Joint Chiefs of Staff, Pentagon, discussing humanitarian law and UN peacekeeping operations at the Humanitarian Law Conference



Keynote speaker, Sonia Picado, Ambassador of Costa Rica to the United States, discusses human rights issues with conference participants at the Conference on the Inter-American System for the Protection of Human Rights



(left to right) G.J.H. van Hoof, Chairman, Netherlands Institute of Human Rights; Judge Antonio Cançado Trindade, Inter-American Court of Human Rights; Alvaro Tirado Mejía, President, Inter-American Commission of Human Rights; and WCL Dean Claudio Grossman, at the Conference on the Inter-American System for the Protection of Human Rights



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Grossman Appointed Dean of WCL

On April 10, 1995, American University President Benjamin Ladner announced the appointment of Claudio Grossman as the new dean of the Washington College of Law, effective July 1, 1995. Grossman, currently dean of graduate studies and a co-director of the Center for Human Rights and Humanitarian Law at WCL, is also a member of the Inter-American Commission on Human Rights. The co-directors of the Center and the staff of *The Brief* extend their congratulations to Dean Grossman and wish him success in his new position.



Claudio Grossman

WCL Dean Claudio Grossman opens Humanitarian Law Conference at The American University

FACULTY/STAFF NEWS

by Karen Graziano & Frank De Pasquale

Upendra Baxi, visiting professor of law from the University of New Delhi in India, took part in an international conference of experts in January 1995 at The Human Rights Center, in Utrecht, The Netherlands, to draft an optional protocol to the International Covenant on Economic, Social and Cultural Rights. Also in January, Baxi attended NGO sessions with the Preparatory Committee for the UN Social Summit, and in March 1995, he participated in the U.N. Social Summit in Copenhagen, Denmark.

Tom Farer, Director of the J.D./M.A. Joint Degree Program in Law and International Affairs, participated in a symposium on migration problems and American foreign policy organized by the American Assembly at Columbia University in the fall of 1994. His contribution, entitled "How the International System Copes with Involuntary Migration," was published in the winter issue of *Human Rights Quarterly*. In March 1995, Farer delivered lectures on North-South relations at the University of Nanterre, France.

Claudio Grossman, Dean of Graduate Studies, represented the Inter-American Commission on Human Rights in December 1994 on an official mission to Guatemala to discuss human rights with the Guatemalan government. In January 1995, Grossman participated in an expert meeting on a possible optional protocol to the International Covenant on Economic, Social and Cultural Rights in Utrecht, The

Netherlands. In February, he was elected the First Vice-President of the Inter-American Commission on Human Rights.

Robert Goldman, Professor of Law and Co-Director of the Center for Human Rights and Humanitarian Law, is working with Dr. Francis Deng, Representative of the UN Secretary General on Internally Displaced Persons, to develop legal principles for the protection of the internally displaced. In March of this year, he participated in the New York University-International Committee of the Red Cross seminar for diplomats; he plans to take part in similar programs during the upcoming summer in Bolivia and Europe. In April 1995, Goldman organized the Conference on International Humanitarian Law, held at The American University.

Mark Hager, Professor of Law, is teaching a new course at WCL with Lance Compa, an International Labor Rights Fund attorney, entitled "Worker Rights in the Global Economy," which addresses a range of issues on international labor law. Hager is also submitting an amicus brief in a case before the U.S. Federal Court of Appeals, arguing that the extraterritorial application of U.S. secondary boycott prohibitions violates the First Amendment right of free association for labor unions.

David Hunter, a senior environmental attorney at the Center for International Environmental Law and Adjunct Professor of Law at WCL, is working with groups in

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Canada, continued from page 3

Some Canadian policy decisions over the past five years have also raised concerns in the human rights community. For example, non-governmental organizations, like the Inter-Church Committee on Human Rights in Latin America, criticized the Canadian government's decision to restore full bilateral aid to Peru in January 1994 in the face of what they saw as the absence of clear improvements in human rights and democratic development in that country. Canada was also

A Canadian Parliamentary Committee has proposed that Canada's armed forces specialize in peacekeeping operations and that regional organizations like the OAS play a role in such operations.

criticized for declining to accept more of the Haitian refugees intercepted by the United States and ultimately detained in Guantanamo Bay in 1994, while indigenous leaders like Nobel Peace Prize winner Rigoberta Menchu charge that Canada and other OAS Member-States have been "intransigent" on indigenous peo-

ples' rights and in strengthening links between the indigenous cultures of North and South America.

Canada's Future Role in the OAS

Numerous suggestions have been offered as to how Canada could play a more effective role in the OAS in the future. Human rights advocates like Holly Burkhalter, Washington Director of Human Rights Watch, have urged Canada, the United States, and Mexico to ratify the American Convention on Human Rights and to agree to be bound by the decisions of the Inter-American Court of Human Rights, in order to "provide victims of human rights abuses in all three countries with impartial, independent legal machinery to which they could apply when domestic remedies to correct human rights abuses are lacking." Further, environmental law specialists like Stephen Kass and Jean McCarroll with the New York law firm of Carter, Ledyard & Milburn suggest that Canada and its NAFTA partners will face pressure from the environmental community in the Americas to link any efforts to create a "Free Trade Area of the Americas" with "meaningful commitments to environmental protection throughout the hemisphere." Finally, a Canadian Parliamentary Committee has proposed that Canada's armed forces specialize in

peacekeeping operations and that regional organizations like the OAS play a role in such operations. While groups like Toronto's Canada-Caribbean-Central America Policy Alternatives (CAPA) have supported the idea of OAS participation in UN peacekeeping operations, CAPA has cautioned that the OAS should not undertake peacekeeping missions on its own, explaining that "participation of Latin American officers in UN organized missions in Central America has clearly revealed the questionable capacity of Latin officers to maintain the norms of impartiality under which peacekeepers must function."

This cursory overview of Canada's role in the OAS suggests that although Canada's participation in some areas of the Organization could be improved, it has made significant contributions to the OAS since its admission as a full member. As Peter Hakim, President of the Inter-American Dialogue in Washington, recently concluded, "Canada cannot single-handedly reshape inter-American relations. It can, however, make a decisive contribution on several issues by firmly taking the initiative, by pressing its ideas, and by consistently making good sense." ☉

ICESCR, continued from page 7

Utrecht Expert Meeting

In January 1995, an Expert Meeting on the adoption of the Alston Draft Protocol was organized by the Netherlands Institute of Human Rights at the University of Utrecht. Professors Upendra Baxi and Claudio Grossman, both of the Washington College of Law, attended this meeting. Professor Baxi explains that proposals were made to improve the Alston Draft so that the right to submit communications would be broadened and the rules of procedure would be further elaborated. At the meeting, there also was a proposal to exclude Article 1 of the ICESCR, which sets out the right to self-determination, from the complaints procedure subject matter. Some participants at the meeting believed that this was in the interest of attracting States to sign on to the Protocol. Professor Baxi argued that although this might have been a compelling reason for excluding the article, particularly since the issue of self-determination in the present state of

world affairs is a problematic one, "it would be wrong for an Optional Protocol to rupture the unity of the rights laid down in the ICESCR." After considerable discussion, the experts agreed that none

All states that endorsed the commitments made at the Social Summit in Copenhagen have thereby bound themselves politically to sign and ratify a protocol granting individuals the right to complain about social and economic human rights violations.

of the rights laid down in the Covenant should be excluded from the individual complaint mechanism. Professor Baxi believes that the Committee will have to create its own jurisprudence through which the meaning of the rights laid

down in the ICESCR will then be further developed.

First, however, the Optional Protocol remains to be finalized and states have to be convinced that an individual complaints mechanism is in the interest of promoting economic, social and cultural rights. According to Professor Baxi, though, all states that endorsed the commitments made at the Social Summit in Copenhagen this past March have thereby bound themselves politically to sign and ratify a protocol granting individuals the right to complain about social and economic human rights violations.

Finally, the ICCPR Optional Protocol has resulted in a significant body of case law that, in turn, has engendered international respect for the United Nations Human Rights Committee. This precedent serves as another incentive to proceed toward an optional protocol to the ICESCR. ☉

Herman Schwartz is coordinating a redistribution of slightly out-of-date law text books to the Czech Republic, Poland, Lithuania Bulgaria and Slovakia, where non-communist text books are scarce. The project has been undertaken with the help of Little, Brown & Company, Anderson & Co., The Michie Co., and The Foundation Press, with financial support from the Open Society Foundation.

On January 8, 1995, Eric Rosenthal presented a paper on the International Covenant on Civil and Political Rights (ICCPR) at the First National Conference on Ethics in Neurobiological Research with Human Subjects. From this paper, Rosenthal derived and published a critique of the United States report on compliance with the ICCPR, and presented the critique to the United Nations Human Rights Committee in March. The Committee responded favorably to the MDRI evaluation and found that United States law fails to provide adequate protections for psychiatric patients subject to potentially dangerous medical experimentation.

Faculty/Staff News, continued from page 18

India, Brazil and Bangladesh to bring resettlement and other claims before the recently-created World Bank Inspection Panel. In January 1995, Hunter prepared the environmental component of a report by the Lawyers' Committee for Human Rights on the United States' compliance with the International Covenant on Civil and Political Rights.

Diane Orentlicher, Associate Professor of Law, spoke on impunity at an International Experts Conference on Historic and Contemporary Perspectives on International Criminal Justice hosted by the International Institute of Higher Studies in Criminal Sciences in December 1994 in Siracusa, Italy. In February 1995, Orentlicher took part in an expert panel at WCL on the Yugoslavia War Crimes Tribunal, and in March 1995, she was interviewed regarding the Tribunal on National Public Radio's "All Things Considered."

Eric Rosenthal, Director of Mental Disability Rights International (MDRI), conducted fact-finding tours of psychiatric facilities in Hungary and the Czech Republic in February 1995. In March, Rosenthal spoke at Yale University's Schell Center for Human Rights International Symposium on the Rights of People With Mental Retardation, and brought three disability rights activists from Hungary to the United States for training. He also was recently invited to join the Human Rights Committee of the World Federation for Mental Health.

Herman Schwartz, Professor of Law and Co-Director of the Center for Human Rights and Humanitarian Law, served as a

member of the United States delegation to the 51st Session of the United Nations Human Rights Commission in Geneva in February and March 1995. In March, Schwartz delivered an address on the place of economic and social rights in the new European constitutions at a conference in Krakow, Poland.

Rick Wilson, Director of the WCL International Human Law Rights Clinic, hosted members of the Croatian law faculty for skills training under a joint project of WCL and the American Bar Association's CEELI Program in October 1994. In November, Wilson helped to conduct a defense technique training program in San Francisco for Guatemalan lawyers practicing under Guatemala's new criminal procedure code, and participated in a panel on the first U.S. report on the International Covenant on Civil and Political Rights.

Index of Case Resolutions of the Inter-American Commission on Human Rights

The American University Journal of
International Law and Policy

The Index, found in the Fall 1994 issue of the Journal, is a comprehensive summary of all published case reports of the Commission. It is categorized by articles of the American Convention on Human Rights and the American Declaration on the Rights and Duties of Man violated, as determined by Commission, as well as by subject-matter.

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